

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Corr Wireless Communications, LLC)	CC Docket No. 96-45
)	
Petition for Limited Waiver of Certain Deadlines)	
in Sections 54.307(c) and 54.313(d)(3))	
of the Commission's Rules)	
_____)	

PETITION FOR LIMITED WAIVER

I. INTRODUCTION

Corr Wireless Communications, LLC ("Corr Wireless" or "Company"), pursuant to section 1.3 of the Federal Communications Commission's ("FCC's" or "Commission's") rules, 47 C.F.R. § 1.3, hereby petitions the Commission for a limited waiver of the July 31, 2002, September 30, 2002, and December 30, 2002 filing deadlines for working loop data set forth in section 307(c) of the Commission's rules, 47 C.F.R. § 307(c), and for a limited waiver of the July 1, 2002 and October 1, 2002 filing deadlines for annual high-cost support certifications set forth in section 54.313(d)(3) of the Commission's rules, 47 C.F.R. § 313(d)(3). Core Wireless further requests that the Commission accept its November 29, 2002 annual high-cost support certification as timely filed to meet both the July 31, 2002 and October 1, 2002 filing deadlines and will submit the working loop data that would have been due on July 31, 2002, September 30, 2002 and December 30, 2002 promptly upon grant of this petition.

Corr Wireless is an Eligible Telecommunications Carrier ("ETC") that is eligible to receive non-rural high-cost universal service throughout its licensed service area in the state of Alabama pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214(e)(6). As a prerequisite for the receipt of high-cost universal service

support, section 54.307 of the Commission's rules requires competitive ETCs to file working loop data in accordance with a quarterly schedule, and section 54.313 requires competitive ETCs that are not regulated by a state commission to file annual high-cost certifications. Certain filing deadlines in these rules occurred prior to the date Corr Wireless received its ETC authorization, and one other deadline occurred soon after Corr Wireless received its ETC authorization.

Corr Wireless requests of a waiver of these filing deadlines to allow the Company to receive high-cost universal support beginning on October 31, 2002, the date upon which Corr Wireless received its non-rural ETC authorization from the Commission. As further detailed below, good cause exists for the FCC to grant the limited waiver requested herein and grant of the waiver would serve the public interest.

In support of this Petition, Corr Wireless states as follows:

II. BACKGROUND

Corr Wireless is a small, family-owned commercial mobile radio service ("CMRS") carrier that provides cellular telecommunications and personal communications services (collectively referred to as "CMRS" or "wireless") in seven counties in Alabama in accordance with licenses granted by the Commission.¹ Because the Alabama Public Service Commission ("APSC") has concluded that wireless carriers are not subject to state jurisdiction in Alabama,² Corr Wireless sought ETC designation from the FCC pursuant to section 214(e)(6) of the Act. The Company submitted its application with the Commission for ETC status in its non-rural service territories on April 29, 2002.

¹ Corr Wireless' wireless service territories include Alabama 1 – Franklin, for cellular services, and BTA108 (Decatur), BTA158 (Gadsen), BTA198 (Huntsville), and BTA017 (Anniston), for personal communications services.

² See Order of the Alabama Public Service Commission in APSC Docket U-4400, dated March 12, 2002, attached hereto as Exhibit A.

On October 31, 2002, the FCC granted Corr Wireless authorization as a competitive ETC eligible for high-cost universal service support in its non-rural service territories.³ Under section 214(e) of the Act, 47 U.S.C. § 214(e), Corr Wireless became eligible to begin receiving high-cost universal service support from that date forward.

Upon receipt of its non-rural ETC authorization, Corr Wireless notified the Universal Service Administrative Company (“USAC”) of its ETC status and submitted its annual high-cost certification. Attached hereto as Exhibit C is a copy of the Company’s November 29, 2002 ETC notification letter and annual high-cost certification filing.

At the time Corr Wireless filed its ETC notification and annual certification submission, the Company inadvertently omitted from the filing the working loop report that was due December 30, 2002. Corr Wireless, as a new ETC, made other necessary filings prior to that date. Further, Corr Wireless took diligent steps to familiarize itself with all the necessary forms and reports required as a part of the Commission’s high-cost program, including review of the USAC and FCC websites. However, there are no forms or instructions for the working loop report available to newly-designated ETCs on either the FCC’s website or on USAC’s website. Nor is there any reference or discussion about how the working loops reporting deadlines are tied to receipt of future support payments either on the FCC’s website or on USAC’s website, or in the Commission’s rules.⁴

³ *Federal-State Joint Board on Universal Service; Corr Wireless Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 02-2855 (rel. Oct. 31, 2002). A copy of this Order is attached hereto as Exhibit B.

⁴ Significantly, it is also worth noting that in what little information is available on the USAC website regarding this issue, the website does not use the term “working loop” but refers to the reports only as “line count information” instead of “working loop” information as specified in the Commission’s rules for competitive ETCs. Compare www.universalservice.org/hc/faq.asp (“Non-rural carriers must submit *line count information*.” (emphasis added)) to 47 C.F.R. 54.307(b) (“In order to receive support pursuant to this subpart, a competitive [ETC] must report to the Administrator the number of *working loops* it services in a

A Corr Wireless staff person also contacted a representative at USAC around the time it made its other ETC compliance filings, and, based on the conversation with the USAC representative, was under the mistaken impression that Corr Wireless had filed all the necessary forms in order to receive high-cost support on a going forward basis. Moreover, in spite of all of the diligent efforts by Corr Wireless, it unintentionally did not include the working loop information with its annual certification prior to December 30, 2002 deadline. Corr Wireless had received its ETC designation just two months prior to this deadline.

In attempting to determine when it could expect to receive its high-cost support payments commencing from October 31, 2002, Corr Wireless learned of USAC internal policy that ties future high-cost support payments to the schedule of working loop report deadlines contained in section 54.307(c) of the Commission's rules. Unfortunately, this internal USAC policy is not discussed on USAC's website, nor is this policy specified on the FCC's website or in the Commission's rules or orders. For non-rural ETCs, USAC ties the July 31 working loop report to fourth quarter support for that year, the September 30 report to first quarter support for the next year, and the December 30, 2002 report to second quarter support for the next year. Therefore, under USAC's deadlines, for Corr Wireless to be eligible for high-cost support from the time it received non-rural ETC status on October 31, 2002, it would have needed to file working loop reports prior to and immediately after its ETC grant -- by July 31, 2002 for fourth quarter support, by September 30, 2002 for first quarter 2003 support, and by December 30, 2002 for second quarter 2003 support.⁵

service area pursuant to the schedule set forth in paragraph (c) of this section.” (emphasis added)).

⁵ According to USAC's schedule, the July 30, 2002 working loop report should have included data as of December 31, 2001, the September 30, 2002 report should have included data as of March 30, 2002, and the December 30, 2002 report should have included data as of June 30, 2002.

In addition to the working loop reports, ETCs not regulated by a state, pursuant to section 54.313(b) of the Commission's rules, must file an annual high-cost support certification that would normally be filed by the appropriate state regulatory agency for carriers subject to state jurisdiction. Because the APSC has concluded that wireless carriers are not subject to state regulation in Alabama, Corr Wireless, instead of the APSC, must file the annual certifications required under section 54.313(d). This rule section, unlike the requirements for working loop reports, ties the filing deadlines for the annual certifications to future support payments. Based on the schedule in section 54.313(d)(3), the annual certification must be filed by July 1 in order to be eligible for high-cost support in fourth quarter of that year, and must be filed by October 1 in order to be eligible for high-cost support for first, second, third, and fourth quarter of the next year. Accordingly, under the yearly schedule, Corr Wireless would have needed to file its annual certification before the FCC's October 31, 2002 grant of the Company's ETC status -- by July 1, 2001 in order to be eligible for fourth quarter 2002 support, and again by October 1, 2002 in order to be eligible for first quarter 2002 support.⁶

Moreover, as a prerequisite to receiving high-cost support commencing from Corr Wireless' October 31, 2002 ETC authorization, according to USAC's schedule for working loop reports and the FCC's annual certification filing deadlines, the Company would have needed to begin filing working loop reports with USAC *three months prior to receipt of its ETC status*, and begin filing its annual high-cost certification letters *four months prior to receipt of its ETC status*. In short, absent a waiver of the Commission of the July 31, 2002, September 30, 2002 and December 31, 2002 working loop report deadlines and the July 1, 2002 and October 1, 2002

⁶ Under section 54.313(d)(3) of the Commission's rules, a carrier required to file annual certifications is eligible for second, third and fourth quarter 2003 high-cost support if it filed its annual certification by January 1, 2003. 47 C.F.R. § 313(d)(3). Because Corr Wireless filed its annual certification on November 29, 2003, it is eligible for high-cost support for second, third and fourth quarter 2003 high-cost support under the FCC's annual certification requirements set forth in section 54.313(d)(3).

annual high-cost certification deadlines, Corr Wireless' high-cost universal service support will not begin until July 1, 2003 – more than eight months after the Company received its ETC authorization.

As explained more fully below, good cause thus exists to grant a limited waiver of the Commission's rules to allow Corr Wireless to receive high-cost universal service support commencing on October 31, 2002. Not only would grant of Corr Wireless' waiver request be consistent with Commission precedent, but also will fulfill the Commission's well-established universal service policy of competitive neutrality and therefore serve the public interest of providing consumers with "just, reasonable and affordable telephone service."⁷

III. GOOD CAUSE EXISTS TO GRANT A LIMITED WAIVER OF THE COMMISSION'S RULES

Pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the Commission may grant a waiver of the application of any of its rules for "good cause shown." The Commission may waive a rule where the specific facts make strict compliance with the rule inconsistent with the public interest.⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation overall policy on an individual basis.⁹ Thus, the Commission may waive its rules if special circumstances warrant such a waiver, and the waiver will serve the public interest.

Corr Wireless submits that good cause exists to grant the Company a limited waiver of sections 54.307(c) and 54.313(d)(3) of the Commission's rules in order to allow Corr Wireless to

⁷ 47 USC § 254(b)(1). *See also Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd. 8776, 8781, ¶4 (quoting Joint Explanatory Statement recital that goal of 1996 Act is to establish "a pro-competitive . . . framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to *all* Americans by opening *all* telecommunications markets to competition") (emphasis added).

⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

receive high-cost universal service support for fourth quarter 2002, first quarter 2003 and second quarter 2003, effective from its receipt of non-rural competitive ETC status October 31, 2002. In sum, because Corr Wireless did not receive its ETC designation until October 31, 2002, it could not have met either the July 31, 2002 or September 30, 2002 working loop report deadlines, or the July 1, 2002 and October 1, 2002 annual certification deadlines, for fourth quarter 2002 and first quarter 2003 high-cost support. Additionally, even though Corr Wireless made diligent efforts after grant of its ETC authorization to submit all the necessary paperwork for receipt of high-cost support, including review of the FCC and USAC websites and contact with USAC staff, and thus thought it had complied with all relevant deadlines, the December 30, 2002 working loop reporting deadline for third quarter 2003 support was not met.

The difficulty encountered by Corr Wireless in obtaining information regarding the working loop report requirements was further exacerbated by the uncertainty regarding how a wireless carrier would be required to report “working loops.” “Working loops” is a term of art typically used in the wireline context. Unfortunately, neither USAC nor the FCC websites, nor the Commission’s rules or orders, provide any specific instructions regarding what would constitute a “working loop” in the wireless context for purposes of meeting the “working loop” reporting requirements. Indeed, additional conversations with USAC staff have revealed that their interpretation of the “working loop” data requirement for wireless ETCs is a report of wireless subscribership numbers.

Strict application of USAC’s policy that links the section 54.307(c) working loop reporting deadlines to the receipt of certain support payments, and of the Commission’s section 54.313(d)(3) requirement that links the annual certifications for ETCs to receipt of certain support payments, creates the unintended consequence of denying Corr Wireless’ high-cost universal service support for eight months past grant of its ETC authority. This result, however, is inconsistent with the Commission’s stated goals of competitive neutrality for universal service

support. If the administrative policies applied by USAC for grant of support are applied to deny or delay support of new entrants, such action will create competitive inequity, in contravention of FCC rules and policies. In addition, such action will punish new competitive ETCs, based solely on the timing of grant of the ETC authorization by the FCC. Moreover, the special circumstances involved in this case outweigh any minimal potential processing issues that USAC may face as a result of the late-filed reports and certifications. Accordingly, a limited waiver of the ETC filing deadlines in sections 54.307(c) and 54.313(d)(3) of the Commission's rules is warranted and is consistent with the public interest.

Commission precedent supports grant of the requested waiver. The Commission previously has granted waivers from strict application of the ETC compliance filing deadlines for newly authorized competitive ETCs. Specifically, similar to the instant situation, the FCC recently granted to RFB Cellular, Inc. ("RFB") a limited waiver of certain working loop and annual certification filing deadlines in sections 54.307(c) and 54.313(d) of the Commission's rules in order to allow RFB to begin receipt of high-cost universal service support from the date on which it received its ETC designation.¹⁰ In deciding to grant RFB's waiver request, the Commission agreed that denying high-cost support to the newly-designated ETC merely because of the timing of its ETC designation would undermine the FCC's well-established goal of competitive neutrality for universal service that is "critical to ensuring that all Americans have access to affordable telecommunications."¹¹ The Commission determined that RFB should not be penalized as a result of the timing of its ETC designation, and thus good cause existed to

¹⁰ *Federal-State Joint Board on Universal Service; RFB Cellular, Inc. Petitions for Waiver of Sections 54.314(d) and 54.307(c) of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, DA 02-3316 (rel. Dec. 4, 2002).

¹¹ *Id.* at ¶9 (citing *Federal-State Joint Board on Universal Service; Promoting Deployment of Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 12208, 12264-65, ¶114 (2000)).

permit the carrier to late-file its working loop reports and certification filings that were due prior to receipt of its ETC authorization.

Importantly, with the exception of the December 30, 2002 working loop report deadline, Corr Wireless's situation essentially is exactly same as the situation encountered by RFB, where the FCC granted a limited waiver of the working loop and annual certification filing deadlines. As with RFB, Corr Wireless seeks a limited waiver of the ETC filing deadlines that occurred prior to receipt of the Company's ETC designation. In the *RFB Cellular* case, the FCC determined that a waiver of the pre-ETC filing deadlines was warranted, appropriate and consistent with the public interest, and denial of such a request would unduly punish RFB and undermine the competitive neutrality goals of universal service support. Accordingly, the Commission should apply the same principles in this case and grant, at a minimum, Corr Wireless' waiver request with respect to the July 31, 2002 and September 30, 2002 working loop reporting deadlines and the July 1, 2002 and October 1, 2002 annual certification filings, all of which occurred prior to Corr Wireless' receipt of its non-rural competitive ETC status.

Corr Wireless seeks a waiver of the December 30, 2002 working loop report deadline and submits that Commission precedent also supports this request. In *RFB Cellular*, the Commission specifically noted that a competitive ETC should not be penalized "as a result of the timing of its ETC designation."¹² The December 30, 2002 working loop report was the first working loop filing required of Corr Wireless after its ETC designation. This filing deadline occurred only two months after the Company's receipt of ETC status.

Although Corr Wireless worked diligently to meet its ETC filing deadlines, the working loop report, as noted above, is a report for which no specific form or instructions are readily-available either at the USAC or the FCC websites to newly-designated ETCs seeking compliance

¹² *Id.*

information. Under these circumstances, waiver of the December 30, 2002 working loops report deadline also is warranted and appropriate, and strict application of the deadline would only serve to punish Corr Wireless for the timing of its ETC designation (a factor not entirely under its control, as the designation is granted by the FCC), despite its good faith efforts to submit all the necessary filings for receipt of its high-cost support as a newly-designated ETC.

Furthermore, strict application of this deadline would be particularly unjust given that scant information regarding how to prepare the report is readily available to new competitive ETCs. The dearth of guidelines places new entrants such as Corr Wireless at a competitive disadvantage to incumbent carriers already receiving high-cost support. This competitive disadvantage is further magnified in the context of new wireless ETCs such as Corr Wireless because the term “working loops,” a term of art typically to describe wireline facilities, does not clearly translate into a description of their wireless facilities.

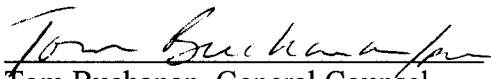
Significantly, in granting another request for waiver of a ETC-filing deadline, the FCC has recognized the “administrative burden” that has been placed on first-time recipients of federal universal service support as justification for a deviation of high-cost support filing deadlines in certain circumstances.¹³ As described herein, circumstances exist in this case that provide good cause for grant of a limited waiver of certain ETC filing deadlines in order to allow Corr Wireless, a first-time recipient of high-cost support, to receive the full amount of support for which it is eligible, commencing from the time it received its non-rural competitive ETC authorization from the Commission on October 31, 2002. Grant of such a waiver would serve the public interest and is consistent with Commission precedent regarding this important issue.

¹³ *Federal-State Joint Board on Universal Service; Centennial Cellular Corporation's Request for Waiver of Sections 5.307(b) of the Commission's Rules and Regulations*, Order, 14 FCC Rcd. 4350, ¶5 (1999).

IV. CONCLUSION

Accordingly, for the reasons set forth herein, Corr Wireless submits that special circumstances exist to justify a limited waiver of the July 31, 2002, September 30, 2002 and December 30, 2002 working loop report filing deadlines required by section 54.307(c) of the Commission's rules and of the July 1, 2002 and October 1, 2002 annual high-cost support certification filing deadlines required by section 54.313(d)(3) of the Commission's rules. Grant of this waiver will promote the objectives of a competitively neutral universal service support program and thus serve the public interest. Corr Wireless respectfully requests expedited action on this request in order to minimize the economic and competitive damage that further delay in the receipt of support is causing Corr Wireless.

Respectfully submitted,


Tom Buchanan, General Counsel
Corr Wireless Communications, LLC
600 3rd Avenue East
Oreonta, Alabama 35121
Phone: (205) 237-3000

Date: March 18, 2003

EXHIBIT A

**Alabama Public Service Commission
Wireless Carrier Order**



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 991
MONTGOMERY, ALABAMA 36101-0991

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

**PINE BELT CELLULAR, INC. and PINE
BELT PCS, INC.,**

Joint Petitioners

**PETITION: For ETC status and/or
clarification regarding the jurisdiction
of the Commission to grant ETC status
to wireless carriers.**

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION



Jim Sullivan, President



Jan Cook, Commissioner



George C. Wallace, Jr., Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary

EXHIBIT B

Corr Wireless ETC Designation Order

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Corr Wireless Communications, LLC)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	

MEMORANDUM OPINION AND ORDER

Adopted: October 29, 2002

Released: October 31, 2002

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the petition of Corr Wireless Communications, LLC (Corr)¹ to be designated as an eligible telecommunications carrier (ETC) throughout its licensed service area in the state of Alabama pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).² We conclude that Corr, a commercial mobile radio service (CMRS) carrier, has satisfied the statutory eligibility requirements of section 214(e)(1).³ Specifically, we conclude that Corr has demonstrated that it will offer and advertise the services supported by the federal universal service support mechanisms throughout the designated service area. Corr has provided an affirmative statement that the Alabama Public Service Commission (Alabama Commission) lacks the jurisdiction to perform the designation for Corr, and that the Federal Communications Commission (Commission) therefore has authority to perform the requested ETC designation under section 214(e)(6) of the Act.⁴

II. BACKGROUND

A. The Act

2. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal

¹ Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier, filed April 29, 2002, Revised Exhibit 1, filed October 9, 2002 (Corr Petition).

² 47 U.S.C. § 214(e)(6).

³ 47 U.S.C. § 214(e)(1).

⁴ 47 U.S.C. § 214(e)(6).

service support.”⁵ Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.⁶

3. Section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designations.⁷ Section 214(e)(6), however, directs the Commission, upon request, to designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”⁸ Under section 214(e)(6), upon request and consistent with the public interest, convenience, and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of section 214(e)(1).⁹

B. Commission Requirements for ETC Designation

4. Filing Requirements for ETC Designation. On December 29, 1997, the Commission released a Public Notice establishing the requisite procedures for carriers seeking Commission designation as an ETC under section 214(e)(6).¹⁰ In the *Section 214(e)(6) Public Notice*, the Commission delegated authority to the Chief of the Wireline Competition Bureau to designate carriers as ETCs pursuant to section 214(e)(6).¹¹ The *Section 214(e)(6) Public Notice* required petitioners to: (1) submit a certification and brief statement of supporting facts demonstrating that the petitioner is “not subject to the jurisdiction of a state commission;” (2) submit a certification that the petitioner offers all services designated for support by the Commission pursuant to section 254(c); (3) provide a certification that the petitioner offers the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;” (4) offer a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefor using media of general distribution;” and (5) if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service areas for which it requests an ETC designation from the Commission.¹²

⁵ 47 U.S.C. § 254(e).

⁶ 47 U.S.C. § 214(e)(1).

⁷ 47 U.S.C. § 214(e)(2). See also *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12255, para. 93 (2000) (*Twelfth Report and Order*).

⁸ 47 U.S.C. § 214(e)(6). See, e.g., *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 18133 (2001) (*Western Wireless Pine Ridge Order*); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 9589 (Wireline Comp. Bur. 2002).

⁹ 47 U.S.C. § 214(e)(6).

¹⁰ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947 (1997) (*Section 214(e)(6) Public Notice*).

¹¹ *Id.* at 22948. The Wireline Competition Bureau was previously known as the Common Carrier Bureau.

¹² *Id.* at 22948-49.

5. Twelfth Report and Order. On June 30, 2000, the Commission released the *Twelfth Report and Order* which, among other things, set forth how a carrier seeking ETC designation from the Commission must demonstrate that the state commission lacks jurisdiction to perform the ETC designation.¹³ Carriers seeking designation as an ETC for service provided on non-tribal lands must provide the Commission with an “affirmative statement” from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission’s jurisdiction.¹⁴ The Commission defined an “affirmative statement” as “any duly authorized letter, comment, or state commission order indicating that [the state commission] lacks jurisdiction to perform the designation over a particular carrier.”¹⁵ The requirement to provide an “affirmative statement” ensures that the state commission has had “a specific opportunity to address and resolve issues involving a state commission’s authority under state law to regulate certain carriers or classes of carriers.”¹⁶

6. Corr Petition. On April 29, 2002, Corr filed with this Commission a petition pursuant to section 214(e)(6) seeking designation as an ETC throughout its licensed service area in the state of Alabama.¹⁷ Corr contends that the Alabama Commission has issued an “affirmative statement” that the Alabama Commission does not have jurisdiction to designate a CMRS carrier as an ETC. Accordingly, Corr asks the Commission to exercise jurisdiction and designate Corr as an ETC pursuant to section 214(e)(6).¹⁸ Corr also maintains that it satisfies the statutory and regulatory prerequisites for ETC designation, and that designating Corr as an ETC will serve the public interest.¹⁹

III. DISCUSSION

7. We find, as discussed in more detail below, that Corr has met all the requirements set forth in sections 214(e)(1) and (e)(6) to be designated as an ETC by this Commission for the provision of service in Alabama. We conclude that Corr has demonstrated that the Alabama Commission lacks the jurisdiction to perform the designation, and that the Commission therefore may consider Corr’s petition under section 214(e)(6). We also conclude that Corr has demonstrated that it now offers and advertises, or will offer and advertise, the services supported by the federal universal service support mechanisms throughout the designated service areas upon designation as an ETC. Furthermore, we find that the designation of Corr as an ETC serves the public interest because it will benefit consumers in Alabama by promoting competition, new

¹³ See *Twelfth Report and Order*, 15 FCC Rcd at 12255-65, paras. 93-114.

¹⁴ *Twelfth Report and Order* 15 FCC Rcd at 12255, para. 93.

¹⁵ *Twelfth Report and Order*, 15 FCC Rcd at 12264, para. 113.

¹⁶ *Id.* (citations omitted).

¹⁷ See generally Corr Petition. On May 15, 2002, the Wireline Competition Bureau released a Public Notice seeking comment on the Corr Petition. See *Wireline Competition Bureau Seeks Comment on Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier in Certain Non-Rural Service Areas in the State of Alabama*, CC Docket No. 96-45, Public Notice, 17 FCC Rcd 8775 (2002). Cellular Telecommunications & Internet Association (CTIA) submitted comments in response to the Public Notice. See Comments of The Cellular Telecommunications & Internet Association, CC Docket No. 96-45 (filed May 24, 2002).

¹⁸ See Corr Petition at 3.

¹⁹ See Corr Petition at 3-4, 7, Exhibit 1.

technologies, and universal service to those consumers. Pursuant to our authority under section 214(e)(6), we therefore designate Corr as an ETC in Alabama.

A. Commission Authority to Perform the ETC Designation

8. We find that Corr has demonstrated that the Alabama Commission lacks the jurisdiction to perform the requested ETC designation and that the Commission therefore has authority to consider Corr's petition under section 214(e)(6) of the Act. Corr submitted as an "affirmative statement" an order issued by the Alabama Commission addressing a petition filed by several CMRS carriers seeking ETC designation, or, in the alternative, clarification regarding the jurisdiction of the Alabama Commission to grant ETC status to wireless carriers.²⁰ In the Alabama Commission Order, the Alabama Commission concluded that it "has no authority to regulate, *in any respect*, cellular services, broadband personal communications services, and commercial mobile radio services in Alabama."²¹ The Alabama Commission advised the petitioners and "all other wireless providers seeking ETC status [to] pursue their ETC designation request with the FCC as provided by 47 U.S.C. § 214(e)(6)."²² The Alabama Commission's decision in the Alabama Commission Order is consistent with the Code of Alabama and a March 2000 declaratory ruling issued by the Alabama Commission.²³

B. Offering and Advertising the Supported Services

9. Offering the Services Designated for Support. We find that Corr has demonstrated that it now offers, or will offer, the services supported by the federal universal service support mechanisms upon designation as an ETC. Corr is a CMRS carrier serving, in accordance with licenses granted by the Commission, wireless service territories that include Alabama 1 – Franklin, for cellular services, and BTA108 (Decatur), BTA158 (Gadsen), BTA198 (Huntsville), and BTA017 (Anniston), for personal communications services.²⁴ Corr certifies that it currently provides all of the services and functionalities pursuant to section 254(c) of the Act throughout its service areas in Alabama.²⁵ Corr states that it has the capability to offer, in accordance with section 54.101(a) of the rules, voice-grade access to the public switched network, local usage, the functional equivalent of DTMF signaling, single-party service, access to emergency service, access to operator services, access to interexchange service, access to

²⁰ See Corr Petition, Exhibit 2 (Alabama Public Service Commission, *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, Order, Docket No. U-4400 at 1-3 (March 12, 2000) (Alabama Commission Order).

²¹ Alabama Commission Order at 2 (emphasis in original).

²² *Id.*

²³ *Id.* See generally Alabama Public Service Commission, *Bell South Mobility, Inc. Petition for Declaratory Ruling*, Order, Docket No. 26414 (March 2, 2000) (Alabama Declaratory Ruling). The Alabama Code definition of "cellular telecommunications services" includes all cellular services, broadband personal communications services and CMRS. *Id.* at 2. See also Ala. Code § 40-21-120(1)a (2002). The Alabama Code definition of "cellular telecommunications provider" includes all licensees of the Federal Communications Commission to provide cellular telecommunication services, broadband personal communications services, CMRS, and all resellers of such services. See Alabama Declaratory Ruling at 2. See also Ala. Code § 40-21-120(1)b (2002).

²⁴ See Corr Petition at 2.

²⁵ See *id.* at 4-6, Exhibit 1.

directory assistance, and toll limitation for qualifying low-income consumers.²⁶ Corr indicates that, upon designation as an ETC, it will make available a universal service offering that includes all of the supported services.²⁷ Corr states that it complies with applicable law and Commission directives on providing access to emergency services.²⁸ In addition, although the Commission has not set a minimum local usage requirement, Corr certifies that it currently offers several service options including varying amounts of local usage, and intends to offer its universal service customers a rate plan that includes unlimited local usage.²⁹ Finally, Corr commits to provide service to any requesting customer within the designated service area.³⁰ We therefore conclude that Corr complies with the requirement of section 214(e)(1)(A) to offer the services that are supported by the federal universal service support mechanisms under section 254(c).³¹

10. Offering the Supported Services Using a Carrier's Own Facilities. We conclude that Corr has demonstrated that it satisfies the requirement of section 214(e)(1)(A) to offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.³² Corr states that it provides the supported services "using [its] existing network infrastructure, consisting of switching, trunking, cell sites, and network equipment, together with any expansions and enhancements to that network."³³ We find this certification sufficient to satisfy the requirements of section 214(e)(1)(A).

11. Advertising the Supported Services. We conclude that Corr has demonstrated that it satisfies the requirement of section 214(e)(1)(B) to advertise the availability of the supported services and the charges therefor, using media of general distribution.³⁴ Corr certifies that it will advertise the availability of its universal service offerings, and the charges therefor, using media of general distribution.³⁵ Corr currently advertises its wireless services through various media, including television, radio, newspaper, and billboard advertising.³⁶ Corr states that it will expand upon these media, as necessary, to ensure that customers within its designated service area are fully informed of its universal service offerings.³⁷ We find this certification sufficient to satisfy

²⁶ See Corr Petition at 4-6.

²⁷ *Id.* at 4.

²⁸ See 47 C.F.R. § 54.101(a)(5) (stating that access to emergency services includes access to 911 and enhanced 911 to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems). Corr currently provides access to emergency services throughout its cellular service area by dialing 911. See Corr Petition at 5. Corr indicates that it has completed Phase I E911 implementation in all jurisdictions that have requested it (three of the seven counties it serves). See *id.* Corr currently has a Phase II waiver request pending with the Commission. See *id.*

²⁹ See Corr Petition at 4.

³⁰ See *id.* Exhibit 1.

³¹ 47 U.S.C. § 214(e)(1)(A).

³² See Corr Petition at 6.

³³ Corr Petition at 6, Exhibit 1.

³⁴ See 47 U.S.C. § 214(e)(1)(B).

³⁵ See Corr Petition at 7.

³⁶ See *id.*

³⁷ See *id.*

the requirements of section 214(e)(1)(B). Moreover, because ETCs receive universal service support only to the extent that they serve customers, we believe that strong economic incentives exist, in addition to the statutory obligation, to advertise the universal service offerings in Alabama.³⁸

C. Public Interest Analysis

12. We conclude that it is “consistent with the public interest, convenience, and necessity” to designate Corr as an ETC in the requested non-rural service area that is served by BellSouth.³⁹ As the Commission has previously stated, for those areas served by non-rural telephone companies, the designation of an additional ETC based upon a demonstration that the requesting carrier complies with the statutory eligibility obligations of section 214(e)(1) is consistent *per se* with the public interest.⁴⁰ An important goal of the Act is to open local telecommunications markets to competition, and Congress recognized that the promotion of competition is consistent with the public interest in those areas served by non-rural telephone companies.⁴¹ Additionally, we note that no parties filed oppositions to the Corr Petition. We conclude that Corr has demonstrated that its designation as an ETC will fulfill the underlying federal policies favoring competition.

D. Designated Service Area

13. Consistent with Corr’s request, we designate Corr as an ETC for the requested service area in Alabama.⁴² This service area encompasses the current service area of BellSouth as indicated in Appendix A.

IV. ANTI-DRUG ABUSE ACT CERTIFICATION

14. Pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, no applicant is eligible for any new, modified, or renewed instrument of authorization from the Commission, including authorizations issued pursuant to section 214 of the Act, unless the applicant certifies that neither it, nor any party to its application, is subject to a denial of federal benefits, including Commission benefits.⁴³ This certification must also include the names of individuals specified by section 1.2002(b) of the Commission’s rules.⁴⁴ Corr has provided a certification consistent

³⁸ See *id.* (asserting that Corr will have economic incentives to advertise).

³⁹ 47 U.S.C. § 214(e)(6).

⁴⁰ See, e.g., *Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Memorandum Opinion and Order, 15 FCC Rcd 39 (Com. Car. Bur. 2000).

⁴¹ See 47 U.S.C. § 214(e)(6).

⁴² See Corr Petition at 1-2, Exhibit 3. Under section 214(e)(5) of the Act, “service area” connotes a geographic area established by a state commission, or the Commission under section 214(e)(6), for the purpose of determining universal service obligations and support mechanisms. 47 U.S.C. § 214(e)(5).

⁴³ See 47 U.S.C. § 1.2002(a); 21 U.S.C. § 862.

⁴⁴ Section 1.2002(b) provides that a certification pursuant to that section shall include: “(1) If the applicant is an individual, that individual; (2) If the applicant is a corporation or unincorporated association, all officers, directors, (continued....)”

with the requirements of the Anti-Drug Abuse Act of 1988.⁴⁵ We find that Corr has satisfied the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.

V. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, Corr Wireless Communications, LLC IS DESIGNATED AN ELIGIBLE TELECOMMUNICATIONS CARRIER for the designated service area in Alabama, as discussed herein.

16. IT IS FURTHER ORDERED that a copy of this Memorandum Opinion and Order SHALL BE transmitted by the Wireline Competition Bureau to the Universal Service Administrative Company.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey
Deputy Chief, Wireline Competition Bureau

(...continued from previous page)

or persons holding 5% or more of the outstanding stock or shares (voting/and or non-voting) of the petitioner; and (3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership." 47 C.F.R. § 1.2002(b).

⁴⁵ See Corr Petition, Exhibit 1.

APPENDIX A

**ALABAMA NON-RURAL WIRE CENTERS FOR INCLUSION IN
CORR'S ETC SERVICE AREA**

BellSouth

Blount
Cullman
Etowah
Limestone
Madison
Marshall
Morgan

EXHIBIT C

**Corr Wireless November 29, 2002
ETC Notification and Annual High-Cost Certification**



Corr Wireless

November 29, 2002


Irene Flannery
Vice President – High Cost and Low Income Division
Universal Service Administrative Company
2120 L Street, NW, Suite 600
Washington, D.C. 20037

Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CC Docket No. 96-45 Annual USAC Certification

This is to certify that Corr Wireless Communications, LLC, who was granted the status of an Eligible Telecommunications Carrier by the Federal Communications Commission on October 29, 2002 will use its federal universal service high cost and low income support funds only for the provision, maintenance, and upgrading of facilities and service for which the support is intended.

I am authorized to make this certification on behalf of the company named above. This certification is provided for all study areas under the common control of the company.

Signature 
Date 11-29-02

Oneonta: P O Box 1500, 35121 tel 205.237.3581 fax 205.237.3525 *Cullman:* P O Box 1493, 35056 tel 256.708.2355 fax 256.708.8010
Hartselle: 913 Highway 31 SW, 35640 tel 256.773.5975 fax 256.758.0456 *Arab:* P O Box 1064, 35016 tel 256.586.0466 fax 256.931.0221
Decatur: 1803 6th Avenue SE, 35601, tel 256.758.2355 fax 256.758.3299 *Albertville:* 8180B Highway 431, 35950 tel 256.477.2355 fax 256.477.4299
Gadsden: 2013 Rainbow Dr., 35901 tel 256.481.2355 fax 256.481.3299 *East Gadsden:* 305A George Wallace Dr., 35903 tel 256.481.2677 fax 256.481.2678
Madison: 411 Hughes Road, 35758 tel 256.316.2677 fax 256.316.3299 *Huntsville:* 4721 University Dr NW, 35806 tel 256.316.2355 fax 256.316.2678
Athens: Athens Town Center, 655 Highway 72 West, 35611 tel 256.321.2355 fax 256.321.3299
Guntersville: 2090 Gunter Avenue, 35976 tel 256.477.2677 fax 256.477.2678

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Irene Flannery
Universal Service Admin Co.
2120 L Street NW Suite 600
Washington, D.C. 20037

2. Article Number

(Transfer from service label)

7000 1470 0009 5458 6192

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *N. Williams*☐ Agent☐ Addressee

B. Received by (Printed Name)

N. Williams

C. Date of Delivery

12/09/02

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes